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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/431,902	11/02/1999	KAZUYUKI OHTSU	FUJY=16.705	9388

26304 7590 05/21/2004

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EXAMINER

FERRIS, DERRICK W

ART UNIT PAPER NUMBER

2663

DATE MAILED: 05/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**

Application No.

09/431,902

Applicant(s)

OHTSU ET AL.

Examiner

Derrick W. Ferris

Art Unit

2663

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY** [check either a) or b)]

- a) ☒ The period for reply expires 5 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
- ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
  - (b) ☐ they raise the issue of new matter (see Note below);
  - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
  - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_.

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☐ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_.

Claim(s) objected to: \_\_\_\_\_.

Claim(s) rejected: \_\_\_\_\_.

Claim(s) withdrawn from consideration: \_\_\_\_\_.

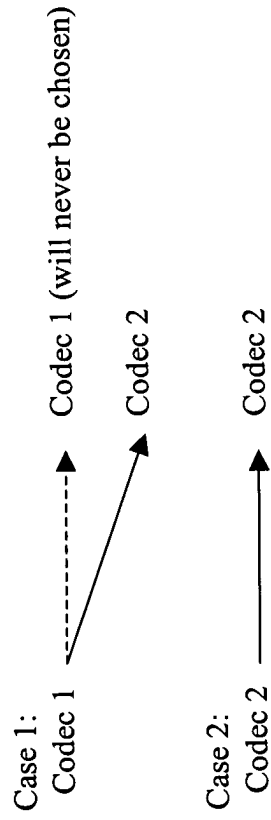
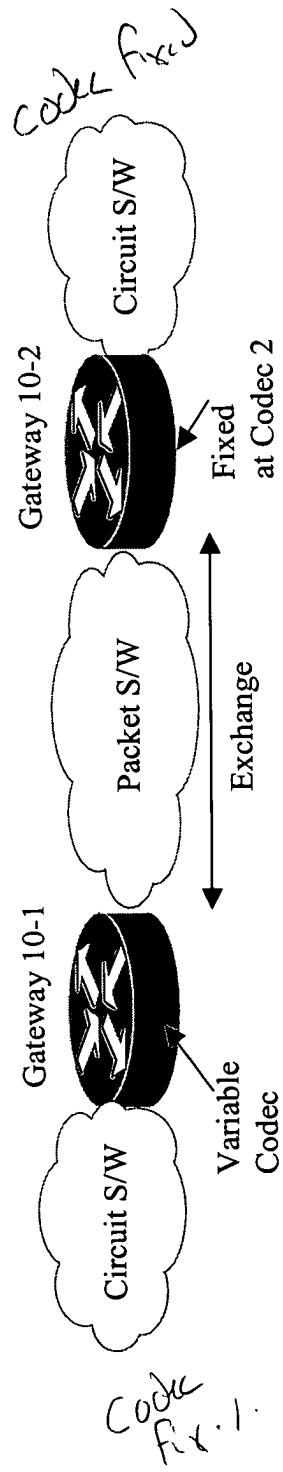
8. ☐ The drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_.
10. ☐ Other: \_\_\_\_\_

Continuation of 5. does NOT place the application in condition for allowance because: Applicant has purposed scenarios that may not fit with the examiner's current written rejection. Examiner notes that these purposed scenarios are still covered by the references using a different assumption. The purposed scenarios will now be explained below. First, examiner notes three references used in the rejection (1) the background of Vargo, (2) the Vargo's instant invention, and (3) the Haeggstrom reference. Applicant argues the scenario that there is no teaching about judging whether the input data compression form coincides to the set of output data compression form before setting a pass-through state. Specifically, even if compression has previously occurred a decompression/compression may occur if the form of the received compressed data does not match the form set for the output side. Examiner notes these scenarios are covered by (1) the background of Vargo and (2) the Vargo's instant invention. In particular, (2) Vargo's instant invention teaches dynamic codec selection on a per packet basis at a gateway. For example, gateway 10a in figure 1 is such a gateway that performs dynamic codec selection on a per packet basis. Note that this gateway 10a is situated between a circuit-switched network (PSTN 11a) and a packet switched network INET 17. Column 7, lines 17-35, e.g., teach dynamic codec selection where the codec selection is performed on a per packet basis. It is important to note that Vargo teaches that codec selection is based on (1) packet redundancy, (2) packet size, and (3) packet bundling, see column 7, lines 25-27. However, also taught is that Vargo can select several qualities of a codec in response to possible conditions by the network, see column 7, lines 32-34. Specifically absent from the teachings of Vargo's instant invention is the possible condition of a prior codec already been chosen at the receiving end where the receiving end is either a gateway or an end user. It is the examiner's assumption in rejecting the applicant's scenarios that the receiving end is a gateway device that does not have the option of dynamic codec selection. Such a receiving device could be gateway 10d in applicant's figure 1. This scenario (i.e., applicant's scenario) is illustrated in examiner's figure 1 for clarification. In case 1, if codec 1 is incoming then codec 1 will need to be expanded and recompressed to codec 2 since gateway 10-2 only supports codec 2 (i.e., gateway 10-2 is fixed at codec 2). In case 2, if codec 2 is incoming then codec 2 does not need to be expanded and compressed since gateway 10-2 only supports codec 2 (i.e., a pass-through state is taught). Stated another way, the "possible condition of the network" (see column 7, lines 32-34 of Vargo) is that codec 2 is fixed for the output. Thus if gateway 10-1 chooses a different codec, other than codec 2, the voice quality would suffer and thus teach away from Vargo. This assumption is supported by (1) the background of Vargo. In particular, the background of Vargo teaches that "codec programs at both ends of an exchange must be able to understand each other, so compatibility of codecs may be an issue". Thus the exchange in this case is between gateway 10-1 and 10-2 in the examiner's figure or e.g., gateways 10a and 10d in Vargo's figure 1. Vargo also teaches that a gateway may statically set its configuration in the case of gateway 10-2..



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8/20/07



Examiner's Figure 1